*File No.* 261

Collection No.

*19*33 .

27/6/67 mas 27/6

Mysore Residency

Bangalore.

**Pros. Serial Nos.** 1-2

**Subject.**

Levy of penalties for default of payment of animal and vehicle taxes within the grace period of 30 days.- Proposal of the Municipal Commission to amend the By-laws N. 3. rejected.

| **Previous References.** | **Later References.** |
|---|---|
| | |

S. 97.—(Blue).

MFP—168S&P—(M-184)—11-8-34—60,000.

N. 1
P.W.D.

Letter No. 1183/33, dated the 31st May 1933, from the President, Municipal Commission, C.& M. Station, Bangalore.

---

(U) Please see Section 138 of the Bangalore Municipal Law . The President, Muni. Commission, says that the imposition of the penalties would act as a deterrent and would induce people to be prompt in the payment of the taxes. If approved the Commission s resolution may be confirmed.

Draft submitted for approval.

S. Singaroyan
10-6-33

(From para 1)

R
13.6.33

Sec
14/6

President

(2) Perusal of rules 8 & 9 of Bye-Law No. 3 it may be considered whether it is necessary to add this rule to Schedule A of the Bye-Law. Examine in this connection the apparently parallel cases referred to in para 3 of P.O.

pages 16 & 17
(G)

14/6/33

Page 12 of Vol. (U)

Page 44 —do—

Page 45 —do—

Page 12 —do—

Page 15-17 of Vol. (G)

Page 44 of (U)

S.N. 1 P.n.c.

Page 45 of (U)

Page 16&17 of (G)

Compare Section 176 of (U)

Under Section 41 (1) A (c) of the Bangalore Municipal Law the Municipal Commission may, with the previous sanction of the Hon'ble the Resident, impose a tax on all or any ~~of~~ vehicles, animals, etc., kept in the Station. Under Section 137(1)(i) of the Law, the Commission may, by bye laws, regulate the assessment and collection of any tax imposed under the Municipal Law and the fees payable in respect of notices of demand or of distraint. Again, under Section 138(1) of the said Law, in making any ~~by~~ bye-law, the Commission may direct that a breach of it shall be punishable with fine.

The tax on vehicles, animals, etc., that may be imposed under section 41 (1) (c) of the Municipal Law, has already been fixed, and the rates so fixed are ~~appended~~ given in Schedule A of Bye-Law No.3, made in exercise of the powers conferred upon the Commission under Section 137(1)(i) to regulate the assessment and collection of tax.

The Commission now proposes to fix a penalty, or in other words a fine, for every default of ~~the~~ payment of the tax within a prescribed date in addition to the tax payable, (the idea apparently being to collect the penalty along with the tax). It is not clear whether the Commission has power to impose (and collect) a fine of the nature contemplated by the proposal. In making any bye-law the Commission may, of course, direct, under the provisions of section 138(1) of the Municipal Law, that a breach of it shall be punishable with fine. Rules 8 and 9 of Bye-Law 3, made under Section 137(1)(i), accordingly provide for the imposition of fines for the breach of (any of the provisions of) the Bye-Law. It seems that the Commission's function ~~rests~~ (stops) there and the actual award of the fine is a subsequent issue resting (with) ~~in the authority of~~ a Court of Law which takes cognizance of the offence on the complaint of the Commission or of some person authorised by the Commission in this behalf. The imposition of a fixed penalty in the form of an additional tax

and

and its inclusion in the schedule of tax would, therefor appear to be ultra vires of the provisions of the - Bangalore Municipal Law.

(6) including portion of P.u.c.

The two cases cited in para. 3 of the P.u.c., viz., the dema notice fee payable for non-payment of House-tax withi the prescribed time and the fee of Rs. 5/- payable for a motor driving license if it is not renewed within a week of its expiry, are not parallel cases as will be seen from the following note.

Demand notice fee.

Page 44 of (U) (7)

In the first place, this is a fee and not a fine. Further, Section 137(1)(i) of the Bangalore Municipal La does specifically provide for the making of a Bye-Law for the imposition of a fee in respect of notices of demand served under Section 186(b) of the Law. The fee prescribed by Rule 5 of Bye-Law No.1 is, therefore, - intra vires, and is not parallel to the imposition of a fine, such as is proposed in the P.u.c., for which there is no provision of Law.

Page 58 of (U)
Page 11 of (G)

Renewal fee for motor driving license.

Pages 10 to 11 of S.N. 47/a 197-20 (-)

Rule 22 of the Bangalore C & M Station Motor Vehicles Rules provides that a permanent driving licens granted or renewed shall remain in force for one year a that the licenses presented after the date of expiry sha not be renewed but that only new licenses will then be granted. The fee prescribed for a new license is Rs.5/- and that for renewal Rs.3/- - vide rule 23 of the Motor Vehicles Rules. Under the above rules, if a license is not renewed before the date of its expiry, it becomes ipso facto annulled and cannot be renewed on payment a renewal fee of Rs.3/-. The only means of possessing a driving license thereafter is to apply for a new licens and obtain it on payment of a fee of Rs.5/- prescribed f such a license. In 1930 the Municipal Commission propo

(M)

S.N 90
197-20

proposed a note to rule 22 of the Motor Vehicles Rules with a view to allow 7 days' grace for the renewal of the licenses. This note is devised to obviate the penalising of a person who is unable, owing to illness or other reasonable cause, from renewing his license in time. The fee for a new license and for the renewal of a licnese are both prescribed by the rules and no penalty or fine in addition, for default of possessing a license is prescribed by the rules. The case cannot, therefore, be said to be parallel.

(9)

It does not appear that the Municipal Commission has consulted legal opinion as to the correctness of the amendment proposed. It is for consideration whether the President, Municipal Commission, may be asked to consult the legal adviser of the Commission as to the validity of the note proposed, and to forward his opinion, or whether the Government Pleader should be asked to express his opinion in the matter.

(from para 2)

7-7-33

Page 58 of (4)

10

Under section 186 of the Bangalore Municipal Law the Municipal Commission have the following remedies for the recovery of taxes due to them.

(1) Distraining and selling the moveable property of the defaulter.

(2) Suing the defaulter in a Civil Court, and

(3) Prosecuting the defaulter in a Criminal Court.

Items (1) and (2) do not contemplate the levy of a fine in addition to the tax due, while item (3), read with rules 8 and 9 of Bye-law 3, enables the

Magist-

Magistrate to impose a fine in addition to the tax due.

S.N.1 P.U.C.

The intention of the Municipal Commission, in suggesting the addition of a note to Schedule 'A' of Bye-law 3, appears to be to enable them to levy and collect departmentally a penalty for non-payment of the taxes without having recourse to the remedy mentioned in para. 10(3) above. They do not, however, appear to be competent to levy and collect the proposed penalty, their powers under the Law in respect of taxation of animals and vehicles being limited to

Page 12 of (u)
Page 58 of (u)

(1) the levy of such taxes under section 41 (1) (A)(c) of the Law,

(2) its recovery under section 186 of the Law &

Page 44 of (u)

(3) the making of bye-laws to regulate the assessment and collection of the tax and the fees payable in respect of notices of demand or of distraint and

Page 45 of (u)

(4) the provision in such bye-laws for the punishment of breaches of those bye-laws with fine not exceeding Rs.50/- and Rs.5/- per day for the period the breach continues.

1-

An amendment of the Law will be necessary to empower the Municipal Commission to levy and collect the proposed penalty. If, therefore, it is decided to invest the Municipal Commission with such power, clause (i) of section 137(1) of the Law will have to be suitably amended. The Government Pleader's views may be invited u.o.

Page 44 of (u)

have consulted H.C. R

17.8.33

(From para. 2)

Remit him periodically due course

Sly. please

The Government Pleader, Civil & Military Station, Bangalore, U.O.

U.O.No. 7052. Dated 26th August 1933.

The rate of the taxes has already been fixed and the Municipality have not sought permission to vary those rates according to the date of payment. What they seek to do is to impose a penalty for non-payment before the days of grace expire.

The penalty for infringement of the Bye-Law is specified in the Bye-Law itself in clauses 8 and 9. Section 138 clause 1 of the Bangalore Municipal Law defines the power of the Municipality to fix the fine leviable. The Section however indicates that the agency which may impose the fine is the Magistrate and not the Municipality.

Section 186 of the Bangalore Municipal Law indicates the mode of recovery of sums due to the Commission. The Municipality may distrain goods or sue in a Civil Court or prosecute before a magistrate but cannot impose a penalty. The latter power can only be exercised by a Magistrate in case of a prosecution.

Demand notice fees and the fee for Motor Driving Licenses not applied for in time stand on a different footing as shown in the previous notes.

According to the Bangalore Municipal Law the Municipality do not seem to possess the power to levy the penalty now proposed as an additional duty.

Government Pleader.

Bangalore,

30th April 1934.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
1 MAY 1934
4206

Read by me on 8-5-34.

(14)

Please see the P.U.C. and the foregoing notes from paragraph 1, particularly the orders of the Resident in paragraph 2 and the subsequent noting in paragraphs 3 to 9.

Pages 16-17 of (G)

The penalty for the nonpayment of taxes within the days of grace is already specified in Bye-Law No 3/8 and 9 rules Chapter II. There is no provision in the Bangalore Municipal Law which permits the Municipal Commission to levy a penalty as an additional tax for default of payment of Animal and Vehicle taxes. The resolution of the Commission cannot therefore be confirmed.

Revised draft submitted for approval.

9 5. 34

(from page 13)

Secretary

T.N.T.
12-5-1934.

15. The Govt Reader has taken eight months to give us an opinion of five very short paragraphs on an extremely simple case, and that in spite of at least three reminders. His work for us has been most unsatisfactory in this respect; and this is only one out of numerous similar cases which I shall probably have to bring to Resident's notice.

16.

The proposed penalty is clearly ultra vires; and the resolution can not be confirmed. The draft may issue.

Crowe

14.5.34.

Refer

may issue

As Secy. has remarked there has been a scandalous delay in dealing with this case.

Ullstein

Crowe

18/5

S.N.2

Issued No 3771, 24.5.34

H.O.
14 2,000—16—7—1931.

No. C 1/6 1188/33 Enc 3 CIVIL AND MILITARY STATION, BANGALORE.
MUNICIPAL OFFICE.
DATED 31st May 1933.

*From*

G. H. COOKE, ESQ., M. C., I. C. S.,

*President, Municipal Commission,*
*C. & M. Station, BANGALORE.*

Inclosed *To*

OFFICE OF THE RESIDENT IN MYSORE
BANGALORE.
1 JUNE 1933
Regd. No. 2852
Ref. No. ... SIR,

The Secretary to the Hon'ble the Resident
in Mysore,
BANGALORE.

359/98

With a view to provide for the levy of penalties for default of payment of Animal and Vehicle taxes within the grace period of 30 days, the Municipal Commission, at their special meeting held on the 30th March 1933, approved of the addition of the following note to Schedule 'A' of Bye-law No.3, Chapter II - vide copy of resolution No.1 dated the 30th March 1933 enclosed:- Encl. I

"For every default of payment of the above taxes within the 30 days of grace from the date they become due, a penalty shall be levied at the following rates, in addition to the taxes payable:-

| | | | | | |
|---|---|---|---|---|---|
| For taxes under | Rs.5/- | ... | | Rs. | 1/-. |
| " " | from Rs.5/- | and under | Rs.10/- | " | 2/-. |
| " " | " Rs.10/- | " | " 20/- | " | 3/-. |
| " " | " Rs.20/- | " | " 30/- | " | 4/-. |
| " " | " Rs.30/- | and above. | | " | 5/-. |

2. The addition was published for objections vide copy of this office Notice No.2623/33 dated the 3rd April 1933 enclosed - Encl. II and no objections having been received, the matter was again placed before the Municipal Commission at their special meeting held on the 25th May 1933, when it was resolved that their resolution of the 30th March 1933 be re-affirmed and be submitted to the Hon'ble the Resident for confirmation - (vide copy of resolution No.1 dated the 25th May 1933 enclosed). Encl. III I request that the Hon'ble the Resident may be pleased to confirm the Commission's resolution of the 30th March 1933 accordingly to come into force with effect from the 1st July 1933.

(Over....

3. The imposition of the penalties would act as a deterrent and would induce people to be prompt in the payment of the taxes. The proposed legislation is on a par with the demand notice fee payable for non-payment of House tax within the prescribed time and the fee of Rs.5/- payable for a motor driving license if it is not renewed within a week of its expiry, the renewal fee being only Rs.3/-.

I have the honour to be,

Sir,

Your most obedient servant,

8.V.33

PRESIDENT, M. C.

DIW.30/5/33.

Encl. I

Municipal Commission's resolution dated the 30th March 1933. (Special Meeting).

---

1. Mr. Paezold's proposition to add a note to schedule 'A' of Bye-law No.3, Chapter II, to provide for the levy of penalties for default of payment of Animal and Vehicle Taxes within the grace period of 30 days.

Recommended.

Mr. Paezold moved the proposition and Mr. Mootham seconded it.

The President put the proposition to the meeting and it was approved to be published for objections.

Resolved that, in order to provide for the levy of penalties for default of payment of Animal and Vehicle Taxes within the grace period of 30 days, the following note be added to schedule 'A' of Bye-law No.3, Chapter II, and that the addition be published for objections:-

"For every default of payment of the above taxes within the 30 days of grace from the date they become due, a penalty shall be levied at the following rates, in addition to the taxes payable:-

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| For taxes | under | Rs.5/- | | | | ... | Rs.1/-. |
| " | " | from | Rs.5/- | and under | Rs.10/- | ... | " 2/-. |
| " | " | " | Rs.10/- | " " | Rs.20/- | ... | " 3/-. |
| " | " | " | Rs.20/- | " " | Rs.30/- | ... | " 4/-. |
| " | " | " | Rs.30/- | and above | | ... | " 5/-. |

(File No.32 of 1933).

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(Sd). G. H. COOKE.

PRESIDENT, M. C.

'C o p y'.

DIW.30/5/33.

End. II

Copy of Notice No.2623/33 dated the 3rd April 1933.

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With a view to provide for the levy of penalties for default of payment of the Municipal Animal and Vehicle Taxes, the Municipal Commission, at their Special Meeting, held on the 30th March 1933, approved of the addition of the following note to Schedule 'A' of Bye-law No.3, Chapter II:-

"For every default of payment of the above taxes within the 30 days of grace from the date they become due, a penalty shall be levied at the following rates, in addition to the taxes payable:-

| | | | |
|---|---|---|---|
| For taxes under | Rs.5/- | .. .. | Rs.1/-. |
| " " | from Rs.5/- and under | Rs.10/- .. | " 2/-. |
| " " | " Rs.10/- " " | Rs.20/- .. | " 3/-. |
| " " | " Rs.20/- " " | Rs.30/- .. | " 4/-. |
| " " | " Rs.30/- and above | .. | " 5/-. |

2. Objections should reach the President, Municipal Commission on or before the 5th May 1933.

(Sd). G. H. COOKE.

PRESIDENT, M. C.

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DIW.30/5/33.

"Copy"

Municipal Commission's resolution dated the 25th May 1933. (Special Meeting).

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1. Re-affirmation of the Municipal Commission's resolution No.1, dated the 30th March 1933, regarding the levy of penalties for default of payment of Animal and Vehicle taxes.

Resolved that the Commission's resolution No.1, dated the 30th March 1933, approving of the following addition to schedule 'A' of Bye-law No.3, Chapter II, to provide for the levy of penalties for default of payment of Animal and Vehicle taxes within the grace period of 30 days, be re-affirmed and be submitted to the Hon'ble the Resident for confirmation:-

"For every default of payment of the above taxes within the 30 days of grace from the date they become due, a penalty shall be levied at the following rates, in addition to the taxes payable:-

| | | | |
|---|---|---|---|
| For taxes under Rs.5/- | ... | ... | Rs.1/-. |
| " " from Rs.5/- and under | Rs.10/- | ... | " 2/-. |
| " " " Rs.10/- " " | Rs.20/- | ... | " 3/-. |
| " " " Rs.20/- " " | Rs.30/- | ... | " 4/-. |
| " " " Rs.30/- and above. | | ... | " 5/-. |

(File No.32 of 1933).

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(Sd). G. H. COOKE.

PRESIDENT, M. C.

'C o p y'.

DIW.30/5/33.

DEPARTMENT.

BRANCH.

File No.

Serial No.

**Draft** Letter / Memorandum / Telegram

Class for telegrams — Ordinary / Express / Urgent* / Priority / Clear Line† — *Only for Foreign Telegrams. †Not for Foreign Telegrams.

No. 3771 Dated 24-5- 1933

To be issued on | Issued on

1st Reminder

2nd Reminder

3rd Reminder

Heading :

Case or Diary No.

If post copy of telegram required

Date of despatch of above

List of enclosures

(Code word for telegrams.)

To

The President, Municipal Commission, C.& M. Station, Bangalore.

Subject:- Levy of penalties for default of payment of Animal and Vehicle taxes within the grace period of 30 days.

---

Sir,

I am directed to refer to your letter No. 1183/33, dated the 31st May 1933, requesting the Hon'ble the President to confirm the Commission's resolution No. 1, dated the 30th March 1933 to add a note to schedule 'A' of Bye-Law No. 3, Chapter II, of the Bye-Laws framed under the Bangalore Municipal Law, with a view to provide for the levy of penalties for default of payment of Animal and Vehicle Taxes within the grace period of 30 days. In reply I am to say that the penalty for non-payment of taxes within the days of grace is already specified in Bye-Law No. 3 rules 8 and 9, Chapter II,

S. G.
MGIPC—51—207 (GPS) DGP—(M-280)—27-4-32—50,000 Pads

II. There is no provision in the Bangalore Municipal Law which permits the Municipal Commission to levy the proposed penalty as an additional tax; and the Hon'ble the Resident therefore regrets that he cannot confirm the resolution.

2. I am to point out that the demand notice fee payable for non-payment of house tax and the excess fee payable for motor driving license are not parallel cases: the imposition of the former is provided for by Section 137(1) (i) of the Bangalore Municipal Law, and of the latter by rule 22 of the Bangalore Motor Vehicles Rules.

I have etc.,

Secy. to the Resident.

9.5.34

T.N.T.

12-5-1934.